IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants

Bruce D. Gaynor, et al.

Serial No.

08/833,838

Filed

April 10, 1997

For

PEPTIDES FOR THE TREATMENT AND DIAGNOSIS OF LUPUS

ERYTHEMATOSUS

Examiner

Not Assigned

Group Art Unit :

Not Assigned

"Express Mail" mailing label No. EL375538560US

Date of Deposit: September 17, 1999

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Assistant Commissioner for

COMMUNICATION REQUESTING WITHDRAWAL OF ERRONEOUSLY ISSUED NOTICE OF ABANDONMENT

Assistant Commissioner for Patents Washington, D.C. 20231

Attn: Office of Petitions

Sir:

Applicants hereby submit this Communication Requesting Withdrawal of the Notice of Abandonment that was erroneously issued by the U.S. Patent Office on October 6, 1998. In this regard, enclosed please find copies of the following:

the Communication in Response to the Notice to File Missing Parts (a) timely filed with the Patent and Trademark Office on December 3, 1997, including a copy of the October 6, 1997 Notice to File Missing Parts; an executed Declaration and

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Serial No. : 08/833,838 Filed : April 10, 1997

For : PEPTIDES FOR THE TREATMENT AND DIAGNOSIS

OF SYSTEMIC LUPUS ERYTHEMATOSUS

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Power of Attorney; a check in the amount of \$953.00 to cover the \$65.00 surcharge fee, the \$385.00 filing fee, and the \$503.00 claims fee, all for a small entity; a First Class Mailing Certificate; and a return receipt postcard (Exhibit A);

- (b) the stamped postcard receipt indicating the timely receipt by theU.S. Patent Office of the Communication in Response to the Notice to File Missing Parts(Exhibit B);
 - (c) a Notice of Abandonment dated October 6, 1998 (Exhibit C); and
- (d) a Communication Requesting Withdrawal of the Erroneously Issued Notice of Abandonment filed with the U.S. Patent Office on January 4, 1999 (Exhibit D).

The circumstances surrounding the erroneous abandonment of the subject application are as follows. On October 6, 1997, the Patent Office issued a Notice to File Missing Parts of Application in connection with the subject application. On December 3, 1997, Applicants timely filed a Communication in Response to the Notice of Missing Parts (Exhibit A), including a copy of the October 6, 1997 Notice to File Missing Parts; an executed Declaration and Power of Attorney; a check in the amount of \$953.00 to cover the \$65.00 surcharge fee, the \$385.00 filing fee, and the \$503.00 claims fee, all for a small entity; a First Class Mailing Certificate; and a return receipt postcard. Applicants' attorneys received the stamped postcard receipt indicating timely receipt of the Communication by the U.S. Patent Office (Exhibit B).

The first page caption of the Communication in Response to the Notice to File Missing Parts correctly identified the (i) Applicants, (ii) filing date, and (iii) title of the Application. However, there was an inadvertent typographical error in the first page

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caption of the Communication which incorrectly identified the Application Number of the <u>parent</u> application to the subject application, namely Application No. 08/531,832. As a result, the U.S. Patent Office failed to match the Communication in Response to the Notice of Missing Parts with the file of the subject application, and erroneously issued a Notice of Abandonment (Exhibit C) in connection with the subject application on October 6, 1998.

The error was compounded when on January 4, 1999, Applicants submitted a Communication to Withdraw the Erroneously Issued Notice of Abandonment (Exhibit D) which again correctly identified the Applicants, filing date and title in the first page caption but incorrectly identified the Application Number. The Communication to Withdraw the Erroneously Issued Notice of Abandonment included a copy of the Notice of Abandonment and the stamped return receipt postcard indicating timely receipt by the U.S. Patent Office of the Communication in Response to the Notice to File Missing Parts.

The typographical error was subsequently discovered by the Applicants when Applicants received a Communication from the Patent Office in connection with the parent application, namely Application No. 08/531,832, which stated "[a]fter careful review of evidence submitted, it was noted that the abandonment belongs to another application that the applicant has filed. The Notice of Abandonment letter indicates serial number 08/833,838 which the Notice of Abandonment is for that application."

Hence, it is apparent that the Communication in Response to the Notice of

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Missing Parts and the subsequent Communication Requesting Withdrawal of the Erroneously Issued Notice of Abandonment were not matched up with the subject application file due to a typographical error in the first page caption of both Communications. However, Applicants respectfully note that the first page caption of both Communications correctly identified the Applicants, the filing date, and the title of the subject application. Further, the Communication in Response to the Notice of Missing Parts enclosed a copy of the Notice to File Missing Parts issued in connection with the subject application, as well as a signed Declaration and Power correctly identifying the Applicants, the filing date, the title, and the Application Number for the subject application. Therefore, there were ample identifiers connecting both Communications with the subject application. Hence, the Communication in Response to the Notice of Missing Parts should have been matched up with the subject application and the Notice of Abandonment should not have been issued.

Accordingly, Applicants respectfully submit that the Notice of Abandonment dated October 6, 1998 should be withdrawn and the subject application should be restored to pending status.

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OF SYSTEMIC LUPUS ERYTHEMATOSUS

Page 5

No fee is deemed necessary in connection with the filing of this Communication. If, however, any fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 01-1785.

Respectfully submitted,

AMSTER, ROTHSTEIN & EBENSTEIN

Attorneys for Applicants

90 Park Avenue

New York, New York 10016

(212) 697-5995

Dated: September 17, 1999

New York, New York

Alison R. Kelly

Prov. Registration No. P44,821



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants

Bruce D. Gaynor, Betty A. Diamond,

Matthew D. Scharff and Philippe Valadon

Serial No.

833,838 08/501,632

Filed

April 10, 1997

For

PEPTIDES FOR THE TREATMENT AND DIAGNOSIS

OF SYSTEMIC LUPUS ERYTHEMATOSUS

COMMUNICATION IN RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION

Assistant Commissioner of Patents Washington, D.C. 20231

Sir:

thereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope and the Commissioner of Patents and the Labelts, Washington, D.C. 20231 on the date which appears below:

Date of Signature and Deposit

In response to the Notice to File Missing Parts of Application dated October 6, 1997, copy attached, Applicants enclose the following:

- a copy of the October 6, 1997 Notice to File Missing Parts;
- 2. an executed Declaration and Power of Attorney; and
- 3. a check in the amount of \$953.00 to cover the \$65.00 surcharge fee, the \$385.00 filing fee, and the \$503.00 claims fee, all for a small entity. Applicants' small entity status was established in the parent application, U.S. Serial No. 08/531,832, and is still applicable.

Adjustment date: 02/08/2000 NVILLARI 12/19/1997 MGORDENA 800000058 08531832

-395.00 OP -493.00 OP 02/08/2000 NVILLARI 00000001 08833838

01 FC:201 02 FC:202 03 FC:203 04 FC:205 385.00 DP 360.00 DP 143.00 DP Applicants: Bruce D. Gaynor, Betty A. Diamond,

Matthew D. Scharff and Philippe Valadon

Serial No.: 08/833,838

Filed : April 10, 1997

Page 2

Authorization is hereby given to charge any deficiency or credit any overpayment in the enclosed fees to Deposit Account No. 01-1785. A duplicate copy of this letter is enclosed.

Respectfully Submitted,

AMSTER, ROTHSTEIN & EBENSTEIN Attorneys for Applicants 90 Park Avenue New York, New York 10016

(212) 697-5995

Dated: December 3, 1997

New York, New York

Elizabeth A. Bogosian

Registration No. 39,911



UNITED STAYLO DEPARTMENT OF COMMERCE Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS Washington, D.C. 20231

APPLICATION NUMBER FILING/RECEIPT DATE FIRST NAMED APPLICANT ATTORNEY DOCKET NO./TITLE

0a/833,830 - Mirt0.97 - SARDUR

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AMSTER POTABLETO & EMENATEIN 90 PARK AVENUE MEN YORK NY 10016



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DATE MAILED:

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NOTICE TO FILE MISSING PARTS OF APPLICATION Filing Date Granted

An Application Number and Filing Date have been assigned to this application. However, the items indicated below are missing. The required items and fees identified below must be timely submitted ALONG WITH THE PAYMENT OF A SURCHARGE for items 1 and 3-6 only of \$ for a for a arguest entity small entity in compliance with 37 CFR 1.27. The surcharge is set forth in 37 CFR 1.16(e). Applicant is given TWO MONTHS FROM THE DATE OF THIS NOTICE within which to file all required items and pay any fees required above to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the ext_nsion fee under the provisions of 37 CFR 1.136(a).
If all required items on this form are filed within the period set above, the total amount owed by applicant as a \Box large entity \Box small entity (verified statement filed), is $2 - \frac{1}{2} = \frac$
The statutory basic filing fee is:
☐ missing. ☐ insufficient.
insufficient. Applicant must submit \$
2. Additional claim fees of \$ / () () (c) , including any multiple dependent claim fees, are required. Applicant must either submit the additional claim fees or cancel additional claims for which fees are due.
□ /3. The oath or declaration:
☐ is missing.
 does not cover the newly submitted items. does not identify the application to which it applies.
 does not include the city and state or foreign country of applicant's residence.
An oath or declaration in compliance with 37 CFR 1. 63, including residence information and identifying the application by
the above Application Number and Filing Date is required.
4. The signature(s) to the oath or declaration is/are:missing.
☐ by a person other than inventor or person qualified under 37 CFR 1.42, 1.43, or 1.47.
A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
☐ 5. The signature of the following joint inventor(s) is missing from the oath or declaration:
An oath or declaration listing the names of all inventors and signed by the omitted inventor(s), identifying this application by the above Application Number and Filing Date, is required.
☐ 6. A \$ processing fee is required since your check was returned without payment (37 CFR 1.21(m)).
7. Your filing receipt was mailed in error because your check was returned without payment.
8. The application does not comply with the Sequence Rules. See attached "Notice to Comply with Sequence Rules 37 CFR 1.821-1.825." 9070000000000000000000000000000000000
See attached "Notice to Comply with Sequence Rules 37 CFR 1.821-1.825." 9. OTHER: Direct the approach and approaching about this police to "Attention Roy Mission Roy".
Direct the r sponse and any questions about this notice to "Attention: Box Missing Parts."
A copy of this notice <u>MUST</u> be returned with the response.
$-\frac{1}{2}$
Customer Şervice Center

FORM PTO-1533 (REV.7-96)

Initial Patent Examination Division (703) 308-1202

The stamp of the Patent Office Pail Room recon acknowledges the receipt of the above identified document on the date indicated by such stamp.

Inventors: Bruce D. Gaynor, et al.

Title: PEPTIDES FOR THE TREATMENT AND DIAGNOSIS OF

(Applicant or Parties)

3/531,832	_Atty:	EAB	-gr

(Serial No. or Proceeding No.)

Communication in Response to Notice to File Missing Parts (2 pages); executed Declaration and Power of Attorney (2 pages); check in the amount of \$953.00; and a First Class Certificate of Mailing stamp dated December 3, 1997.

38345 DOLLARS °' 38345 REMITTANCE ADVICE Commissioner of Patents + Trademarks 12-3-97 | 96700/451 AMSTER, ROTHSTEIN & EBENSTEIN 90 PARK AVENUE NEW YORK, NEW YORK 10016 PAY AMOUNT

#038345# #021000021# 007 1 263842#

THE CHASE MANHATTAN BANK, N.A. – 80 EAST 42nd STREET – NEW YORK, NEW YORK 10017





IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Bruce D. Gaynor, Betty A. Diamond,

Matthew D. Scharff and Philippe Valadon

Serial No. : 08/531,832

Filed : April 10, 1997

For : PEPTIDES FOR THE TREATMENT AND DIAGNOSIS

OF SYSTEMIC LUPUS ERYTHEMATOSUS

COMMUNICATION REQUESTING WITHDRAWAL OF ERRONEOUSLY ISSUED NOTICE OF ABANDONMENT

Honorable Commissioner of Patents and Trademarks Washington, D.C. 20231

Sir:

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231 on the date which appears below:

Date:____

Applicants hereby submit this Communication in response to the Notice of Abandonment dated October 6, 1998 which was erroneously issued by the U.S. Patent and Trademark Office in connection with the above-identified application. Applicants have attached hereto as Exhibit A a copy of the October 6, 1998 Notice of Abandonment.

In the October 6, 1998 Notice, the Examiner indicated that the subject application is abandoned in view of applicants' failure to respond to the October 6, 1997 Notice to File Missing Parts.

Applicants: Bruce D. Gaynor, Betty A. Diamond,

Matthew D. Scharff and Philippe Valadon

Serial No.: 08/833,838

Filed : April 10, 1997

Page 2



Accordingly, applicants would like to direct the Examiner's attention to the return postcard submitted with applicants' Communication in Response to Notice to File Missing Parts, a copy of which is attached hereto as Exhibit B. The return postcard indicates that the Communication, executed Declaration and Power of Attorney, and a check in the amount of \$953.00 were mailed to the U.S. Patent and Trademark Office on December 3, 1997 and received by the U.S. Patent and Trademark Office on December 8, 1997.

In view of the preceding remarks, applicants maintain that the October 6, 1997 Notice to File Missing Parts was timely responded to and was received by the U.S. Patent and Trademark Office. Accordingly, applicants respectfully request that the October 6, 1998 Notice of Abandonment be withdrawn and the application be restored to active status.

No fee is deemed necessary in connection with the filing of this Communication. If, however, any fee is required,

Applicants: Bruce D. Gaynor, Betty A. Diamond,

Matthew D. Scharff and Philippe Valadon

Serial No.: 08/833,838

Filed

: April 10, 1997

Page 3



authorization is hereby given to charge the amount of any such fee to Deposit Account No. 01-1785.

Respectfully Submitted,

AMSTER, ROTHSTEIN & EBENSTEIN Attorneys for Applicants 90 Park Avenue New York, New York 10016 (212) 697-5995

Dated: January 4, 1999

New York, New York

Registration No. 39,911



UNITED STATES DEPARTMENT OF COMMERCE Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS Washington, D.C. 20231

L	APPLICATION NUMBER	FILING/RECEIF	FILING/RECEIPT DATE		FIRST NAMED APPLICANT		ATTORNEY DOCKET NO JTITLE		
	98/833,839	04/10/97	GAYNOR	· [SEP 1 7 1999	9	96700/451		
	AMSTER ROTHS 90 PARK AVENU	JE		නයගැ. 51∖100€/	TO PROEMERS	NOT A	SS/GNED		
	NEW YORK NY :			CT 19 195 551511 V	B TE MAIL	0000 .ED:	10/06/98		
		NOTICE OF AB	AND ON ME	Date Granted	程原序排 .53(f) o		OUT FILE		
The abo	ove-identified application on 10 - 66 - 9	n is abandoned for	failure to tim	ely or properly	reply to the Hotic	THE MIS	sing/Parts (Notice)		
۔	No reply was received.				DOCKETED VI	2001			
	The reply received on _		was unt	imely.	OLI DATE:				
	The reply received on		was imp	proper. The rep	ply diputor include				
1	 2. The surcharge und date of a provision 3. The full amount of (Note: A nonprovision) 	nonprovisional apder 37 CFR 1.16(i) all application. the basic filing feesional application in	plication. required for under 37 Cl	filing the basic FR 1.16 (a), (f) blied on for ben	filing fee or cover , (g), (k). nefits under 35 U.S	sheet on a of the sheet on a o	date later than the filing		
!		ication may not be	relied on for	benefits under	r 35 U.S.C. 119(e)	and 37 CFF	forth in 37 CFR 1.53(f). R 1.78 unless the basic		
☐ The	e letter of Express Aban failure to timely or propo	donment filed on_		is ad			plication is abandoned		
A petition	on to the Commissioner	under 37 CFR 1.1	37 may be fil	led requesting	that the applicatio	n be revived			

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must b filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(c).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must b filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(c).

Any questions concerning petitions to revive should be directed to "Office of Petitions" at (703) 305-9282.

Customer Service Center

Initial Patent Examination Division (703) 308-1202

The stamp of the Patent/Trademark/Copyright Office Mail Room hereon acknowledges the receipt of the below-identified document(s) on the date indicated by such stamp.

Client/Matter No.:	96700/451	<u> </u>	Exp. Mail	No.:					
Date Mailed:	1/4/99			Atty.:	EAB	Sec.:	gr		
In re: Inventors:	Bruce D. Gaynor, Betty A. Diamond, Matthew D. Scharff and Philip Valadon								
Title:	PEPTIDES FOR THE TREATMENT AND DIAGNOSIS OF SYSTEMIC LUPUS ERYTHEMATOSUS								
Senal No.:	Serial No.: 08/531,832						-		
Title of Document(s) Forwarded:	Communication Red Abandonment; a co (Exhibit A); a copy of Communication In I and a First Class Ce	py of the Octo of the return p Response to N	ice of Abar I with appl ing Parts (indonment dicants' (Exhibit B):				
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The stamp of the Patent Office Mail Room receon actions ges the receipt
of the above identified document on the date indicated by such stamp.
Inventors: Bruce D. Gaynor, et PE Title: PEPTIDES FOR THE TREATMENT AND DIXEROSIS OF
(Applicant or Parties)
08/531,832 Atty RAB
(Serial No. or Proceeding No.)
Communication in Response to Notice to File Missing Parts (2)

Communication in Response to Notice to File Missing Parts (2 pages); executed Declaration and Power of Attorney (2 pages); check in the amount of \$953.00; and a First Class Certificate of Mailing stamp dated December 3, 1997.